



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0344; FRL-10018-03-Region 4]

Air Plan Approval;

North Carolina: Permits Requiring Public Participation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality, on July 10, 2019. This SIP revision seeks to modify the State's permitting program public participation procedures by adding two types of minor source permits to the list of permits that must undergo public participation and by making minor edits. EPA is approving this revision pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0344. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia

30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Akers can be reached via electronic mail at akers.brad@epa.gov or via telephone at (404) 562-9089.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving changes to the North Carolina SIP that were provided to EPA through NCDEQ via a letter dated July 10, 2019. EPA is approving this SIP revision which makes changes to 15A North Carolina Administrative Code (NCAC) Subchapter 02Q, Section .0306, *Permits Requiring Public Participation*.¹ The July 10, 2019, SIP revision changes to Section .0306 add two types of permits subject to public participation and makes several minor edits, including the removal of obsolete regulatory references.² The permits listed in Section .0306 must undergo public notice for comments with the opportunity for the public to request a public hearing. Pursuant to Section .0307(d), *Public Participation Procedures*, the public comment period for these permits must last for at least 30 days.

¹ The State submitted the SIP revision following the readoption of several air regulations, including .0306, pursuant to North Carolina's 10-year regulatory readoption process at North Carolina General Statute 150B-21.3A.

² North Carolina's April 1, 2018, rule revision also removed paragraph (b) from the state-effective version of the rule. This paragraph required a 30-day public notice period for permits that placed a physical or operational limitation on a facility to avoid title V requirements under 15 NCAC 02Q 0500. Furthermore, the revised rule renumbered paragraph (c) of the state-effective version of the rule to paragraph (b). However, these changes are not before EPA for action because 1) the version of paragraph (b) that the State removed in the April 1, 2018, rule revision is not in the SIP, and 2) the version of paragraph (b) in the SIP is identical to the version of paragraph (b) in the April 1, 2018, rule. See 67 FR 64990 (October 22, 2002).

EPA is approving the two additions to the list of permits requiring public participation pursuant to CAA section 110 as a SIP-strengthening measure and 40 CFR 51.161. EPA is approving the remaining changes to Section .0306 because they are minor edits that do not interfere with attainment and maintenance of the national ambient air quality standards or any other applicable requirement of the Act. See EPA’s October 14, 2020 (85 FR 65013), notice of proposed rulemaking (NPRM) for further detail on these changes and EPA’s rationale for approving them. EPA did not receive any adverse public comments on the October 14, 2020, NPRM.³

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of 15A NCAC Subchapter 02Q, Section .0306, *Permits Requiring Public Participation*, state effective April 1, 2018, which expands the types of permits which require public participation and makes minor edits to the rule. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

III. Final Action

EPA is approving changes to the North Carolina SIP included in a July 10, 2019, submittal. Specifically, EPA is approving changes to 15A NCAC 02Q .0306, *Permits Requiring*

³ EPA received one comment in support of the proposed action, which is available in the docket for this action.

⁴ See 62 FR 27968 (May 22, 1997).

Public Participation, that add two types of permits to the list of permits that must undergo public participation and make minor edits, including the removal of obsolete regulatory references. EPA is approving these changes for the reasons described above.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Signing Statement

This document of the Environmental Protection Agency was signed on December 14, 2020, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Dated: February 23, 2021.

John Blevins,

Acting Regional Administrator,

Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. In 52.1770, amend the table in paragraph (c)(1) by revising the entry for “Section .0306” under “Subchapter 2Q Air Quality Permits”, under “Section .0300 Construction and Operating Permits” to read as follows:

§52.1770 Identification of plan.

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(c) * * *

(1) EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Subchapter 2Q Air Quality Permits				
**	**	*	*	*
Section .0300 Construction and Operating Permits				
**	**	*	*	*
Section .0306	Permits Requiring Public Participation	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
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[FR Doc. 2021-04064 Filed: 2/26/2021 8:45 am; Publication Date: 3/1/2021]